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February 7, 2024

VIA ECF

The Honorable Leda D. Wettre, U.S.M.J.
United States District Court
Martin Luther King, Jr. Federal Building
50 Walnut Street, Room 2060
Newark, New Jersey 07102

Re: *Axsome Therapeutics, Inc., et al. v. Teva Pharmaceuticals, Inc.*
Civil Action Nos. 23-1695 (MEF)(LDW) & 23-23142 (MEF)(LDW)

Dear Judge Wettre:

This firm, together with Quinn Emanuel Urquhart & Sullivan LLP, represents Plaintiffs Axsome Therapeutics, Inc. and Antecip Bioventures II LLC (together, "Plaintiffs") in the above-captioned related matters.

Further to our January 25, 2024 Letter (*see* ECF No. 50 in C.A. No. 23-1695) and pursuant to Your Honor's directives during the February 1, 2024 status teleconference, the parties have agreed, subject to the Court's approval, to the enclosed [Proposed] Order Consolidating Cases For All Purposes. This [Proposed] Order is materially identical to the form enclosed with the parties' January 25 Letter except for the case schedule, which proposes a close of fact discovery of February 7, 2025 (i.e., more than two months sooner than the April 18, 2025 date originally proposed by the parties). If this [Proposed] Order meets with the Court's approval, we respectfully request that Your Honor sign it and have it entered on the respective dockets.

Thank you for Your Honor's kind attention to these matters.

Respectfully yours,

A handwritten signature in blue ink that reads "Charles M. Lizza". The signature is fluid and cursive, with the first name "Charles" and last name "Lizza" clearly distinguishable.

Charles M. Lizza

Enclosure

cc: All counsel of record (via email)

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**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

**AXSOME THERAPEUTICS, INC. and ANTECIP
BIOVENTURES II LLC,**

Plaintiffs,

v.

TEVA PHARMACEUTICALS, INC.,

Defendant.

Civil Action No. 23-01695
(MEF)(LDW)

Civil Action No. 23-23142
(MEF)(LDW)
(consolidated)

(Filed Electronically)

[PROPOSED] ORDER CONSOLIDATING CASES FOR ALL PURPOSES

WHEREAS, Plaintiffs Axsome Therapeutics, Inc. (“Axsome”) and Antecip Bioventures II LLC (“Antecip” and, collectively with Axsome, “Plaintiffs”), filed Civil Action No. 23-01695 in this Judicial District against Defendant Teva Pharmaceuticals, Inc. (“Teva”) on March 24, 2023;

WHEREAS, Plaintiffs filed the related Civil Action No. 23-23142 in this Judicial District against Teva on December 15, 2023;

WHEREAS, Teva hereby acknowledges its acceptance of service of the complaint in Civil Action No. 23-23142;

WHEREAS, by agreement of the parties, Teva answered the complaint in Civil Action No. 23-23142 on January 18, 2024 (*see* ECF No. 11 in Civil Action No. 23-23142);

WHEREAS, Plaintiffs and Teva jointly request that Civil Action Nos. 23-01695 and 23-23142 be consolidated;

IT IS on this _____ day of _____, 2024,

ORDERED that Civil Action Nos. 23-01695 and 23-23142 (the “Consolidated Actions”) are consolidated for all purposes, including discovery, case management, and trial, subject to further order of the Court;

IT IS FURTHER ORDERED that all filings in the Consolidated Actions shall use the above caption on this Order;

IT IS FURTHER ORDERED that all filings going forward shall be filed in Civil Action No. 23-01695 and that Civil Action No. 23-23142 shall be administratively terminated by the Clerk’s office;

IT IS FURTHER ORDERED that the January 19, 2024 Letter Order setting the Initial Conference in Civil Action No. 23-23142 (ECF No. 13) is hereby vacated; and

IT IS FURTHER ORDERED that the Consolidated Actions shall proceed on the following amended schedule:

| <u>Event</u> | <u>Deadline</u> |
|---|-------------------|
| Plaintiffs’ Answer to Counterclaims (’518, ’706, ’144 Patents Only) | February 15, 2024 |
| Plaintiffs’ Disclosure of Asserted Claims under L. Pat. R. 3.6(b) (’518, ’706, ’144 Patents Only) | February 29, 2024 |
| Defendants’ disclosure of Non-Infringement and Invalidity Contentions under L. Pat. R. 3.6(c)-(f) (’518, ’706, ’144 Patents Only) | April 11, 2024 |

| <u>Event</u> | <u>Deadline</u> |
|--|--------------------|
| Plaintiffs' disclosure of Infringement Contentions and Responses to Invalidity Contentions under L. Pat. R. 3.6(g)-(i) ('518, '706, '144 Patents Only) | June 17, 2024 |
| Joint exchange of proposed claim terms under L. Pat. R. 4.1 (All Patents) | June 28, 2024 |
| Preliminary proposed constructions and identification of intrinsic evidence under L. Pat. R. 4.2(a)-(b) (All Patents) | July 11, 2024 |
| Joint exchange of all intrinsic and extrinsic evidence under L. Pat. R. 4.2(c) (All Patents) | July 26, 2024 |
| Joint Claim Construction and Prehearing Statement under L. Pat. R. 4.3(a)-(e) (All Patents) | August 14, 2024 |
| Close of Fact Discovery for Claim Construction (All Patents) | August 29, 2024 |
| Opening Claim Construction Briefs (All Patents) | September 20, 2024 |
| Close of Expert Discovery for Claim Construction (All Patents) | October 18, 2024 |
| Responsive Claim Construction Briefs (All Patents) | November 15, 2024 |
| Proposed schedule for <i>Markman</i> hearing due to Court | December 6, 2025 |
| Close of Fact Discovery | February 7, 2025 |

SO ORDERED.

Hon. Leda D. Wettre, U.S.M.J.